

# Historic House For Sale

## Cuyahoga Valley's Sellback Program

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**T**he Cuyahoga Valley National Recreation Area has developed a Sellback with Restrictive Covenant Program to help with the preservation of the valley's historic buildings and communities. This application of the National Park Service's sellback regulations (36 CFR 17), in combination with a preservation covenant, is being used for an open-market, bid-sale real estate offering. The "sellback" approach enables the Service to preserve historically-significant resources within viable communities, as part of a living cultural landscape. The program does not require the Service to act as landlord. Given that these buildings have no identified programmatic use, the "sellback" strategy allows the Service to focus agency involvement on building and community preservation.

*Covenant As Cultural Resource Management Research*, the first step in cultural resource management, is particularly critical for the sellback program. Identifying and assessing the significance of historic elements enables the covenant, and the Service, to preserve the distinctive features that make a property historically significant. Subject matter specialists including historians, historical architects, and historical landscape architects inspect a building's interior, exterior, and curtilage. Archeologists perform shovel tests of the site and investigate the archeological potential of the area. Additionally, a natural resource value assessment is done prior to the sale offering.

**Planning** for the resource—determining how to best care for the resources while allowing the public to enjoy them—is addressed in the terms and conditions of the restrictive covenant. Any proposed alteration to the exterior, grounds, or rooms that retain historic integrity must meet the *Secretary of the Interior's Standards and Guidelines for Rehabilitating Historic Buildings*. The covenant defines alterations as changes to the surface of any improvements including the architectural style, general design, and floor plan, the kind and texture of building materials, and the type and style of features, such as doors, windows, and trim. Alterations include construction, reconstruction, improvements, enlargement, alterations, demolition, or repair. The Service does not review

maintenance work, such as repair in kind, repainting or refinishing—provided such maintenance or repair in kind will not change the physical improvements as they exist on the date of the deed.

Prohibiting ground disturbance or excavation on designated archeological sites and excavation or grading more than 12" in depth throughout the premises protects the site's archeological resources. Requiring maintenance of identified vintage cultivars and limiting screen or perimeter planting to 3' in height protects the cultural landscape values of the property. To retain the historic scale and character of the district, the park service provides technical assistance to property owners who wish to plant new vegetation.

**Stewardship** responsibilities continue after the property has been sold. A recommended maintenance schedule is attached to the covenant. The National Park Service reviews proposed alterations for compliance with the Secretary of the Interior's *Standards*. National Park Service staff and the property owners meet annually to discuss future plans and past problems. If the property is going to be sold, the property owner notifies the Covenantant. The Covenantant then has the right to explain the terms and conditions of the covenant to the new owner. These provisions allow for the use and enjoyment of the resource while reducing negative impacts.

### *First Sellback Offer*

Boston Village is a viable community, with much of the property remaining in private ownership and on the local tax rolls. The preservation covenant approach allows the community to remain dynamic by retaining their local tax base. This approach also represents the most cost-effective means for the National Park Service to protect the interests in the property necessary to meet management objectives.

Regional review of the covenant provided a variety of responses ranging from commendation for developing an innovative approach to concerns over specific legal issues. The Lands Division requested that a reverter clause be added, which would return the property to government ownership if the property owner violated the conditions or terms of the covenant. Park management



thought a reverter clause was unnecessary, due to the following Covenantee's Remedies:

***Representatives of the Covenantee may, following reasonable notice to Covenantor, correct any such violation, and hold Covenantor, its successors, and assigns, responsible for the cost thereof. Such cost until repaid shall constitute a lien on the Property.***

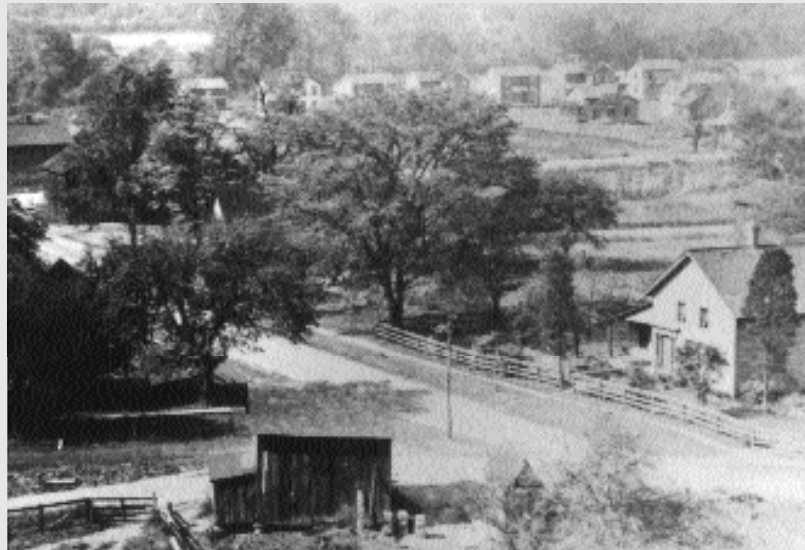
Additional language in the covenant states: ***The Covenantor shall immediately discharge any liens or claim of liens filed against the property including those against any work done by the Covenantee or any that would have priority over any of the rights, title, or interests hereunder of Covenantor.***

The issue of casualty damage and replacement raised concerns that were largely a product of confusion over the Secretary's *Standards*. Would the Service expect the property owner to use historic material to repair any damages to the building? If the property burned, would the Service allow the owner to replace the structure?

If so, how would this effect the appraised value of the property with the restrictive covenant?

The Secretary's *Standards* do not mandate or even advocate the use of historic materials for repair. Often historic materials come from other buildings, which results in a false sense of historic development. If the building burned, the property owner may repair or reconstruct—provided the Covenantor determines a restoration or reconstruction would serve the purpose and intent of the covenant, which, as stated in the 1974 federal enabling legislation, is to preserve the historic features of the Cuyahoga Valley National Recreation Area.

Park management extensively marketed the 1836 Conger/Jackson House, its initial sellback offering, with the help of a local Realtor. Beyond the required listing in the *Federal Register* and local paper, notification of the offering was published in the Multiple Property Listings and four open houses were held. Interviews of park officials regarding the bid sale appeared on local television and in local newspapers. Park officials and the Realtor showed the house and answered ques-



*Boston Village, c. 1900. Note Conger/Jackson House to the right.*

*In 1992, the park made an initial "sellback" offering—the 1836 Conger/Jackson House, a contributing resource in the National Register-listed Boston Mills Historic District. When the federal government acquired the property, Cuyahoga Valley maintenance staff performed minimal rehabilitation work on the structure, in preparation for the sellback offering. This work included removing the asbestos shingle siding and aluminum trim. The original weatherboard and wood trim were then repaired or replaced in kind. Cuyahoga Valley NRA management submitted the final restrictive covenant document to the Director of the Midwest Region for full regional review. The submission noted that the park's intent was to develop a preservation strategy that was compatible with both the concerns of the local property owners and the preservation mission of the NPS.*



tions about the restrictive covenant. More than 180 people attended the open houses.

An aspect of the sellback authorizing legislation that proved unrealistic was the requirement that all bids be submitted in full in the form of a money order, cash, or cashier's check. Because of this requirement, no bids were submitted. No major lending institution would lend money to only submit a bid. The future success of the program seemed contingent on revising 36 CFR Part 17 Conveyance of Freehold and Leasehold Interests.

#### *Changing The Regulation*

The Cuyahoga Valley NRA submitted a proposed regulation change that would allow bids to be accompanied by earnest money equivalent to 1% of the appraised value or \$1,000, whichever is greater, with the balance due within 45 days of the award. The regional solicitor approved and forwarded this change to the National Park Service Ranger Activities office in Washington. The Washington office requested that the earnest

money submission be 10%, not 1% of the appraised value.

The final compromise language requires bids to be accompanied by earnest money equal to 2% of the appraised value or \$2,500, whichever is greater, and forfeiture of \$1,000 of the earnest money if the Service does not receive the balance within 45 days. According to the author of the regulation change, CUVA Superintendent, John P. Debo Jr., "the \$2,500 amount will have the effect of maximizing the number of bidders, while the \$1,000 forfeiture amount will ensure that bidders have a high degree of certainty of their ability to obtain financing."

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*S & H Wiesneans House. Constructed, 1915; Boston Mills Historic District.*

*The Cuyahoga Valley NRA offered a contributing resource in the Boston Mills Historic District, the S & H Wiesneans House, for bid sale last summer. The Building Utilization Plan 1994 Update identifies 19 additional buildings as sellback candidates. As the National Park Service strives to develop ways of meeting resource protection mandates with less money and staff, alternatives to traditional strategies that provide low-cost, effective options become increasingly attractive. Although this is a relatively new approach to managing historic properties in the park system, other parks are exploring how to set up a Sellback with Restrictive Covenant program. For more information on the program, contact Cuyahoga Valley NRA Cultural Resource Management Specialist, Jeff Winstel, at 216-546-5975 or NP\_internet@nps.gov.*